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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the day 5th January of 1995.

ORIGINAL APPLICATION NO. 1308 OF 1988.

Ram Laut, S/o Ram Narain,
E.D.B.P.M. Ganeshpur,
District- Basti.

By Advocate Sri Birendra Kumar Srivastava..... Applicant.

Versus

1. Union of India through Secretary,
Ministry of Posts & Telegraphs,
New Delhi.

2. Postmaster General,
U.P. Circle,
Lucknow.

3. Superintendent of Post Offices,
Basti Division,
Basti.

4. Smt. Chandra Kiran Srivastava,
widow of Shyam Kishore Lal Srivastava,
R/o Village Mohammadpur, Post Ganeshpur,
District-Basti.

By Advocate Sri N.B. Singh

..... Respondents.

CORAM: Hon'ble Mr. T.L. Verma, MEMBER (J)

Hon'ble Mr. K. Muthukumar, MEMBER (A)

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ORDER (RESERVED)

By Hon'ble Mr. K. Muthukumar, MEMBER (A)

1. By this application, the applicant has prayed for a declaration by this Tribunal that the order passed by the respondent no. 2 in favour of the respondent no. 4 is illegal, arbitrary and without jurisdiction and also for a direction to the respondent no. 3 not to interfere in the applicant's functioning on the post of Extra Departmental Branch Post Master, Ganeshpur, District- Basti.

2. The facts in this case are briefly as follows:-

a) The applicant was offered a provisional appointment to the post of E.D.B.P.M. Ganeshpur pending finalisation of the Disciplinary Proceedings against one Sri Shyam Kishore Lal , by order dated 23.3.1984 of the respondent no. 2. During the pendency of the Disciplinary Proceedings against Shyam Kishore Lal , the delinquent official Sri Shyam Kishore Lal died on 21.8.1985. The widow of Shyam Kishore Lal who is impleaded as a respondent no. 4, in this application, was offered ~~for~~ regular appointment as E.D.B.P.M on compassionate ground and the order was passed by the respondent no. 1, in his order dated 6.9.1988 (Annexure-3) to the application as a special case in relaxation of the recruitment rules.

The applicant's appointment on the provisional basis, was terminated without notice , in terms of the order dated 23.3.1984 Aggrieved by this , the applicant has approached this Tribunal.

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3. In the counter reply, the respondents have stated that the provisional appointment of the applicant was made on 23.3.1984 as the regular E.D.B.P.M was put off duty pending finalisation of the Disciplinary Proceedings against him. When the delinquent died, the wife of the delinquent official applied for E.D.B.P.M. on compassionate ground and after proper verification, as the respondent no. 1 has proved the appointment as a special case on ~~xxx~~ compassionate ground in relaxation of Rules and accordingly the widow of Shyam Kishore Lal was appointed in the post of E.D.B.P.M. on the regular basis. Since, the provisional appointment of the applicant was valid only till the regular appointment is made against the said post, the applicant has no right of continuance of his provisional appointment, once the regular appointee namely the widow of Sri Shyam Kishore Lal ~~xxx~~ joins the said post. The respondents have also denied the averments made by the applicant and stated that the respondent no. 2 is fully competent to take decisions regarding the appointment on the compassionate grounds. The respondents further averred that the applicant was only given a provisional appointment in the said post till the disciplinary proceedings against Sri Shyam Kishore Lal is finally disposed of and in case it was not decided to take him back into service, the provisional appointment of the applicant would be till the regular appointment was made. The said regular appointment was made, with the appointment on the compassionate grounds of the widow respondents of Sri Shyam Kishore Lal. They, therefore, / the grounds contend that alleged by the applicant for his relief ~~are~~ untenable and are liable to be rejected.

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4. We have heard the learned counsel for the parties and perused the record.

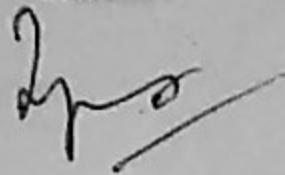
5. It is admitted fact that the applicant's appointment was provisional appointment till the completion of the disciplinary proceedings or till regular appointment is made. In this case, due to the death of the ~~delinquent official~~ / during the pendency of disciplinary proceedings, his widow was given compassionate appointment. Since, the compassionate appointment is stated to have made in relaxation of rules as a special case, we find that there is nothing ^{ir}regular in this appointment having been made by the Post Master General, who is the Head of the Department. The applicant has not shown any Rule or Case Law under which the Head of Department is not competent to order such compassionate appointment.

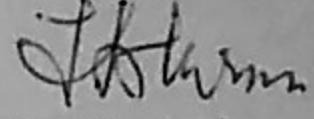
7. In view of this matter, we find that there is nothing wrong in the respondent no. 1, having ~~before~~ made this compassionate appointment in accordance with the instructions governing such compassionate appointment and after observing all formalities required before such appointment is made. We, therefore, do not find any tangible reason to interfere with the order dated 6.9.1988 of the respondent no. 1, in pursuance of which the letter of appointment dated 16.11.1988 was issued by the respondent no. 2.

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8. In the light of the above discussions,
we find there is no merit in this application. We,
accordingly, dismiss this application. No order
as to costs.


MEMBER (A)


MEMBER (J)

ALLAHABAD: DATED: 5th Jan 1995
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